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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

ARLETTE RODRIGUEZ,
Plaintiff,

v.

SUNRISE CREDIT SERVICES,
INC.,
Defendant.

Case No. 5:22-cv-01943

COMPLAINT FOR DAMAGES

- 1. VIOLATION OF THE FAIR
DEBT COLLECTION
PRACTICES ACT, 15 U.S.C.
§1692 ET SEQ.**
- 2. VIOLATION OF THE
ROSENTHAL FAIR DEBT
COLLECTION PRACTICES
ACT, CAL. CIV. CODE §1788 ET
SEQ.**

DEMAND FOR JURY TRIAL

COMPLAINT

NOW comes ARLETTE RODRIGUEZ (“Plaintiff”), by and through the undersigned, complaining as to the conduct of SUNRISE CREDIT SERVICES, INC. (“Defendant”), as follows:

NATURE OF THE ACTION

1 1. Plaintiff brings this action for damages under the Fair Debt Collection Practices
2 Act (“FDCPA”) pursuant to 15 U.S.C. § 1692 *et seq.* and the Rosenthal Fair Debt
3 Collection Practices Act (“RFDCPA”) pursuant to Cal. Civ. Code § 1788 *et seq.*,
4 stemming from Defendant’s unlawful conduct.
5

6 **JURISDICTION AND VENUE**
7

8 2. This action arises under and is brought pursuant to the FDCPA. Subject matter
9 jurisdiction is conferred upon this Court by 15 U.S.C § 1692, as well as 28 U.S.C. §§
10 1331 and 1337, as the action arises under the laws of the United States. Supplemental
11 jurisdiction exists for Plaintiff’s state law claim pursuant to 28 U.S.C. § 1367.
12

13 3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 as Defendant
14 conducts business, and a substantial portion of the events or omissions giving rise to
15 the claims occurred, within the Central District of California.
16

17 **PARTIES**
18

19 4. Plaintiff is a natural person over 18 years-of-age and, at all times relevant,
20 resided in Fontana, California, within the Central District of California.

21 5. Defendant is a third-party debt collector collecting debts from consumers
22 across the country, including from those in the state of California. Defendant is a
23 corporation organized and existing under the laws of the state of New York with its
24 principal place of business located at 260 Airport Plaza, Farmingdale, New York
25 11735.
26
27
28

1 6. Defendant acted through its agents, employees, officers, members, directors,
2 heirs, successors, assigns, principals, trustees, sureties, subrogees, third-party
3 contractors, representatives, and insurers at all times relevant to the instant action.
4

5 **FACTS SUPPORTING CAUSE OF ACTION**

6 7. The instant action arises out of Defendant's attempts to collect upon a purported
7 AT&T Mobility consumer debt in or about the amount of \$725.74 ("subject
8 consumer debt").
9

10 8. Due to financial hardships outside of her control, including being out of work
11 and without income, Plaintiff fell behind on the subject consumer debt.
12

13 9. Thereafter, Plaintiff began receiving calls to her cellular phone number (909)
14 XXX-3806 from Defendant, seeking collection of the subject consumer debt.
15

16 10. At all times relevant to the instant action, Plaintiff was the sole subscriber,
17 owner, and operator of the number ending in -3806. Plaintiff is, and always has been,
18 financially responsible for the phone and its services.
19

20 11. Defendant has primarily used the phone numbers (909) 310-0070, (909) 413-
21 5954, and (909) 310-0070 when placing collection calls to Plaintiff's cellular phone,
22 but upon belief, Defendant has used other phone numbers as well.
23

24 12. Upon information and belief, Defendant regularly utilizes the above-
25 referenced phone numbers during its debt collection activity.
26

27 13. Upon speaking with one of Defendant's representatives, Plaintiff was
28 informed that Defendant was attempting to collect upon the subject consumer debt.
3

1 14. During such a call, Plaintiff demanded that Defendant stop calling her and
2 also informed Defendant that she would call Defendant back herself when she was
3 able to make payments on the subject consumer debt.
4

5 15. Despite such, Defendant continued to call Plaintiff with harassing and
6 repeated phone calls.
7

8 16. Defendant's collection efforts were designed to harass Plaintiff and squeeze
9 sums of money from a consumer who had otherwise made clear that she did not want
10 Defendant calling her again.
11

12 17. Frustrated over Defendant's conduct, Plaintiff spoke with the undersigned
13 regarding her rights, exhausting time, resources, and expenses.
14

15 18. Plaintiff has been unfairly and unnecessarily harassed by Defendant's actions.
16

17 19. Plaintiff has suffered concrete harm as a result of Defendant's actions
18 including, but not limited to, invasion of privacy, aggravation that accompanies
19 unwanted collection telephone calls, emotional distress, and numerous violations of
20 her state and federally-protected interests to be free from harassing and abusive debt
21 collection conduct.
22

23 **COUNT I – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

24 20. Plaintiff repeats and realleges paragraphs 1 through 19 as though fully set
25 forth herein.
26

27 21. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) of the FDCPA.
28

1 22. Defendant is a “debt collector” as defined by § 1692a(6) of the FDCPA,
2 because it regularly uses the mail and/or the telephone to collect, or attempting to
3 collect, delinquent consumer accounts, and is similarly a business whose principal
4 purpose is the collection of debts.
5

6 23. Defendant identifies itself as debt collector and is engaged in the business of
7 collecting or attempting to collect, directly or indirectly, defaulted debts owed or due,
8 or asserted to be owed or due, to others.
9

10 24. The subject consumer debt is a “debt,” as defined by FDCPA § 1692a(5), as
11 it arises out of a transaction due, or asserted to be owed or due, to another for
12 personal, family, or household purposes.
13

14 **a. Violations of FDCPA § 1692d and 12 C.F.R. § 1006.14.**
15

16 25. The FDCPA, pursuant to 15 U.S.C. § 1692d, prohibits a debt collector from
17 engaging “in any conduct the natural consequence of which is to harass, oppress, or
18 abuse any person in connection with the collection of a debt.” § 1692d(5) further
19 prohibits debt collectors from “causing a telephone to ring or engaging any person in
20 telephone conversation repeatedly or continuously with intent to annoy, abuse, or
21 harass any person at the called number.”
22
23

24 26. The newly amended Regulation F provides further guidance on what
25 circumstances constitute harassing and oppressive debt collection conduct. 12 C.F.R.
26 § 1006.14(b)(2) provides guidance on when calls are made repeatedly and
27 continuously, and debt collectors are presumed to comply with these provisions if
28

1 they follow certain guidelines. However, the commentary thereto confirms that this
2 presumptive compliance can be rebutted by several factors, including “[t]he content
3 of a person’s prior communications with the debt collector.” Examples of prior
4 communications with consumers that can evince an intent to harass through phone
5 calls include calls following a demand that such calls cease.
6

7
8 27. Additionally, pursuant to 12 C.F.R. § 1006.14(h), a debt collector cannot
9 “communicate or attempt to communicate with a person through a medium of
10 communication if the person has requested that the debt collector not use that medium
11 to communicate with the person.”
12

13 28. Defendants violated §§ 1692d, 1692d(5), and 12 C.F.R. §§ 1006.14(b)(2) &
14 1006.14(h), through the harassing and noncompliant collection campaign directed
15 towards Plaintiff. Plaintiff notified Defendant orally that its calls were not welcome
16 and needed to cease. Defendant knew that its continued placement of phone calls
17 would be unwelcome to Plaintiff, yet nevertheless persisted, illustrating its intent to
18 harass Plaintiff through its phone calls. Defendant’s persistent calls in response to
19 Plaintiff’s requests that the calls stop only furthers the harassing intent behind
20 Defendant’s contacts. Further, upon becoming aware of Plaintiff’s desire to receive
21 no further collection calls regarding the subject consumer debt, Defendant was
22 obligated to cease utilizing such medium of communication in its efforts to collect
23 the subject consumer debt from Plaintiff – however, such calls persisted
24 notwithstanding Defendant’s obligation to cease. Defendant engaged in this
25
26
27
28

1 harassing and noncompliant conduct in an effort to harass and annoy Plaintiff into
2 addressing the subject consumer debt.

3
4 **b. Violations of FDCPA § 1692e**

5 29. The FDCPA, pursuant to 15 U.S.C. § 1692e, prohibits a debt collector from
6 using “any false, deceptive, or misleading representation or means in connection with
7 the collection of any debt.”
8

9 30. In addition, this section enumerates specific violations, such as:

10 “The use of any false representation or deceptive means to
11 collect or attempt to collect any debt or to obtain information
12 concerning a consumer.” 15 U.S.C. § 1692e(10).

13 31. Defendant violated 15 U.S.C. §§ 1692e and 1692e(10) when it used deceptive
14 means to attempt to collect the subject consumer debt. In spite of the fact that Plaintiff
15 demanded that Defendant stop contacting her, Defendant continued to call Plaintiff,
16 numerous times, seeking payment. Instead of putting an end to this harassing
17 behavior, Defendant placed multiple calls to Plaintiff’s phone in a deceptive attempt
18 to force her to answer its calls. Through its conduct, Defendant misleadingly
19 represented to Plaintiff that it had a legal ability to contact her despite the regulations
20 governing collection calls clearly prohibiting such.
21
22
23

24 **c. Violations of FDCPA § 1692f**

25 32. The FDCPA, pursuant to 15 U.S.C. § 1692f, prohibits a debt collector from
26 using “unfair or unconscionable means to collect or attempt to collect any debt.”
27
28

33. Defendant violated § 1692f when it unfairly and unconscionably attempted to collect on the subject consumer debt by continuously calling Plaintiff after being notified to stop. Exerting pressure on Plaintiff for payment by placing numerous phone calls without her permission is unfair and unconscionable behavior. These means employed by Defendant only served to worry and confuse Plaintiff.

WHEREFORE, Plaintiff, ARLETTE RODRIGUEZ, respectfully requests that this Honorable Court enter judgment in her favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned bodies of law;
- b. Awarding Plaintiff statutory damages of \$1,000.00 as provided under 15 U.S.C. § 1692k(a)(2)(A);
- c. Awarding Plaintiff actual damages, in an amount to be determined at trial, as provided under 15 U.S.C. § 1692k(a)(1);
- d. Awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. § 1692k(a)(3);
- e. Enjoining Defendant from further contacting Plaintiff and seeking payment of the subject consumer debt; and
- f. Awarding Plaintiff any other relief as this Honorable Court deems equitable and just.

COUNT II – VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

34. Plaintiff restates and realleges paragraphs 1 through 33 as though fully set forth herein.

35. Plaintiff is a “person” as defined by Cal. Civ. Code § 1788.2(g).

1 36. The subject consumer debt is a “debt” and “consumer debt” as defined by
2 Cal. Civ. Code §§ 1788.2(d) and 1788.2(f).

3
4 37. Defendants are “debt collectors” as defined by Cal. Civ. Code § 1788.2(c).

5 **a. Violations of RFDCPA § 1788.10 – 1788.17**

6 38. The RFDCPA, pursuant to Cal. Civ. Code § 1788.17, states that
7 “Notwithstanding any other provision of this title, every debt collector collecting or
8 attempting to collect a consumer debt shall comply with the provisions of Section
9 1692b to 1692j, inclusive of, and shall be subject to the remedies in Section 1692k
10 of, Title 15 of the United States Code.”
11

12
13 39. As outlined above, through its unlawful conduct in attempting to collect upon
14 the subject consumer debt, Defendant violated § 1788.17; and §§ 1692d, 1692e, and
15 1692f of the FDCPA. Defendant employed a series of harassing, deceptive, and
16 unconscionable means while attempting to collect the subject consumer debt, as
17 outlined above.
18

19
20 40. Defendant willfully and knowingly violated the RFDCPA. Defendant was
21 aware that Plaintiff disputed owing the subject consumer debt and did not wish to
22 receive any more collection calls to her cellular phone, but yet Defendant continued
23 to bombard Plaintiff with such calls, demanding payment for the subject consumer
24 debt. Defendant’s willful and knowing violations of the RFDCPA should trigger this
25 Court’s ability to award Plaintiff statutory damages of up to \$1,000.00, as provided
26 under Cal. Civ. Code § 1788.30(b).
27
28

1 WHEREFORE, Plaintiff, ARLETTE RODRIGUEZ, respectfully requests
2 that this Honorable Court enter judgment in her favor as follows:

- 3
- 4 a. Declaring that the practices complained of herein are unlawful and violate the
5 aforementioned statute;
- 6 b. Awarding Plaintiff actual damages, pursuant to Cal. Civ. Code § 1788.30(a);
- 7 c. Awarding Plaintiff statutory damages up to \$1,000.00, pursuant to Cal. Civ.
8 Code § 1788.30(b);
- 9 d. Awarding Plaintiff costs and reasonable attorney fees as provided, pursuant to
10 Cal. Civ. Code § 1788.30(c);
- 11 e. Enjoining Defendant from further contacting Plaintiff; and
- 12
- 13 f. Awarding Plaintiff any other relief as this Honorable Court deems equitable
14 and just.

15 Dated: November 3, 2022

Respectfully submitted,

17 /s/Bobby C. Walker
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